

This meeting has been noticed according to the Brown Act rules. This agenda was posted on Friday, March 19, 2021.



**Ordinance No. 152
Oversight Panel
Members:**

*Susan Schiavonne
Jason Campbell
Melodie Chrislock
Marli Melton
Mike Rachel
Kevan Urquhart
Bill Peake
Scott Dick
Rudy Fischer*

MPWMD Contacts:

*General Manager,
David J. Stoldt*

*Administrative Services
Manager, Suresh Prasad*

*Executive Assistant,
Joel G. Pablo*

After staff reports have been distributed, if additional documents are produced by the District and provided to the Committee regarding any item on the agenda, they will be made available on the District's website prior to the meeting. Documents distributed at the meeting will be made available upon request and posted to the District's website within five days following the meeting.

AGENDA

**Ordinance No. 152 Oversight Panel
of the Monterey Peninsula Water Management District**

Wednesday, March 24, 2021 at 2:00 PM, Virtual Meeting

Pursuant to Governor Newsom's Executive Orders N-29-20 and N-33-20, and to do all we can to help slow the spread of COVID-19 (coronavirus), meetings of the Monterey Peninsula Water Management District Board of Directors and committees will be conducted with virtual (electronic) participation only using Zoom.

Join the meeting at this link:

<https://zoom.us/j/91633768145?pwd=OTR4WDZpY09tajY3VkRrMEDFOW13OT09>

Or access the meeting at: ZOOM.US

Meeting number: 916 3376 8145

Meeting password: 3242021

Participate by phone: (669) 900 9128

For detailed instructions on connecting to the Zoom meeting see page 2 of this agenda.

Call to Order / Roll Call

Comments from Public -- *The public may comment on any item within the District's jurisdiction. Please limit your comments to three minutes in length.*

Action Items -- *Public comment will be received on Action Items. Please limit your comments to three minutes in length.*

1. Consider Adoption of October 27, 2020 Committee Meeting Minutes

Discussion Items -- *Public comment will be received on Discussion Items. Please limit your comments to three minutes in length.*

2. Discuss Role and Purpose of the Committee
3. Discuss Key Issues in the Past and Annual Report to the Board of Directors
4. Review Sources and Uses of District Water Supply Funding to Date
5. Review of Revenue and Expenditures of Water Supply Charge Related to Water Supply Activities
6. Discuss Performance of District User Fee to Date

Other Items -- *Public comment will be received on Other Items. Please limit your comments to three minutes in length.*

7. Water Supply Project Update

Adjournment

Upon request, MPWMD will make a reasonable effort to provide written agenda materials in appropriate alternative formats, or disability-related modification or accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in public meetings. MPWMD will also make a reasonable effort to provide translation services upon request. Submit requests by 5 pm on Monday, March 22, 2021 to joel@mpwmd.net, or call (831) 658-5652.

Instructions for Connecting to the Zoom Meeting

Note: If you have not used Zoom previously, when you begin connecting to the meeting you may be asked to download the app. If you do not have a computer, you can participate by phone.

Begin: Within 10 minutes of the meeting start time from your computer click on this link:

<https://zoom.us/j/91633768145?pwd=OTR4WDZpY09tajY3VkRrMEdFOW13QT09> or paste the link into your browser.

DETERMINE WHICH DEVICE YOU WILL BE USING (PROCEED WITH ONE OF THE FOLLOWING INSTRUCTIONS)

USING A DESKTOP COMPUTER OR LAPTOP

1. In a web browser, type: <https://www.zoom.us>
2. Hit the enter key
3. At the top right-hand corner, click on “Join a Meeting”
4. Where it says “Meeting ID”, type in the Meeting ID# above and click “Join Meeting”
5. Your computer will begin downloading the Zoom application. Once downloaded, click “Run” and the application should automatically pop up on your computer. (If you are having trouble downloading, alternatively you can connect through a web browser – the same steps below will apply).
6. You will then be asked to input your name. It is imperative that you put in your first and last name, as participants and attendees should be able to easily identify who is communicating during the meeting.
7. From there, you will be asked to choose either ONE of two audio options: Phone Call or Computer Audio:

COMPUTER AUDIO

1. If you have built in computer audio settings or external video settings – please click “Test Speaker and Microphone”.
2. The client will first ask “Do you hear a ringtone?” •If no, please select “Join Audio by Phone”.
•If yes, proceed with the next question:
3. The client will then ask “Speak and pause, do you hear a replay?” •If no, please select “Join Audio by Phone”
•If yes, please proceed by clicking “Join with Computer Audio”

PHONE CALL

1. If you do not have built in computer audio settings or external video settings – please click “Phone Call”
2. Select a phone number based on your current location for better overall call quality.

+1 669-900-9128 (San Jose, CA)	+1 253-215-8782 (Houston, TX)
+1 346-248-7799 (Chicago, IL)	+1 301-715-8592 (New York, NY)
+1 312-626-6799 (Seattle, WA)	+1 646-558-8656 (Maryland)
3. Once connected, it will ask you to enter the Webinar ID No. and press the pound key
4. It will then ask you to enter your participant ID number and press the pound key.
5. You are now connected to the meeting.

USING AN APPLE/ANDROID MOBILE DEVICE OR SMART PHONE

- 1.Download the Zoom application through the Apple Store or Google Play Store (the application is free).
- 2.Once download is complete, open the Zoom app.
- 3.Tap “Join a Meeting”
- 4.Enter the Meeting ID number
- 5.Enter your name. It is imperative that you put in your first and last name, as participants and attendees should be able to easily identify who is communicating during the meeting.
- 6.Tap “Join Meeting”
- 7.Tap “Join Audio” on the bottom left hand corner of your device
- 8.You may select either ONE of two options: “Call via Device Audio” or “Dial in”

DIAL IN

- 1.If you select “Dial in”, you will be prompted to select a toll-free number to call into.
2. Select a phone number based on your current location for better overall call quality.

+1 669-900-9128 (San Jose, CA)	+1 253-215-8782 (Houston, TX)
+1 346-248-7799 (Chicago, IL)	+1 301-715-8592 (New York, NY)
+1 312-626-6799 (Seattle, WA)	+1 646-558-8656 (Maryland)
- 3.The phone will automatically dial the number, and input the Webinar Meeting ID No. and your Password.
- 4.Do not hang up the call, and return to the Zoom app
- 5.You are now connected to the meeting.

Presenting Public Comment

Receipt of Public Comment – the Chair will ask for comments from the public on all items. Limit your comment to 3 minutes but the Chair could decide to set the time for 2 minutes.

- (a) Computer Audio Connection: Select the “raised hand” icon. When you are called on to speak, please identify yourself.
- (b) Phone audio connection **with** computer to view meeting: Select the “raised hand” icon. When you are called on to speak, please identify yourself.
- (c) Phone audio connection only: Press *9. Wait for the clerk to unmute your phone and then identify yourself and provide your comment. Press *9 to end the call.

Submit Written Comments

If you are unable to participate via telephone or computer to present oral comments, you may also submit your comments by e-mailing them to comments@mpwmd.net with one of the following subject lines "PUBLIC COMMENT ITEM #" (insert the item number relevant to your comment) or "PUBLIC COMMENT – ORAL COMMUNICATIONS". Comments must be received by 12:00 p.m. on March 24, 2021. Comments submitted by noon will be provided to the Board of Directors and compiled as part of the record of the meeting.

ORDINANCE NO. 152 OVERSIGHT PANEL

ACTION ITEM

1. CONSIDER ADOPTION OF OCTOBER 27, 2020 COMMITTEE MEETING MINUTES

Meeting Date: March 24, 2021

From: David J. Stoldt
General Manager

Prepared By: Joel G. Pablo

CEQA Compliance: This action does not constitute a project as defined by the California Environmental Quality Act Guidelines section 15378

SUMMARY: Draft minutes of the October 27, 2020 committee meeting (**Exhibit 1-A**) are attached.

RECOMMENDATION: Consider adoption of the October 27, 2020 committee meeting minutes.

EXHIBIT

1-A Draft Minutes of October 27, 2020 Committee Meeting



EXHIBIT 1-A

DRAFT MINUTES

Ordinance No. 152 Oversight Panel of the Monterey Peninsula Water Management District October 27, 2020

Call to Order The virtual meeting was called to order at 1:37 pm via WebEx.

Committee members present:

John Bottomley (joined at 2:10 pm)
Paul Bruno
Jason Campbell
Birt Johnson, Jr. (left at 2:07 pm)
Karen Paull
Susan Schiavone
John Tilley

MPWMD Staff members present:

David J. Stoldt, General Manager
Suresh Prasad, Water Demand Manager/CFO
Arlene Tavani, Executive Assistant

District Counsel Present:

David Laredo

Committee members absent:

Patie McCracken
Scott Dick

Comments from the Public:

No comments were directed to the committee.

Action Items

1. Consider Adoption of July 28, 2020 Committee Meeting Minutes

Mr. Prasad noted that his title was listed in the minutes as Water Demand Manager/CFO and should be corrected to Administrative Services Manager/CFO. On a motion by Paull and seconded by Campbell, the minutes were approved with the correction on a vote of 6 – 0 by Campbell, Bruno, Johnson, Paull, Schiavone and Tilley. Bottomley, Dick and McCracken were absent.

Discussion Items

2. Review of Revenue and Expenditures of Water Supply Charge Related to Water Supply Activities

Prasad reviewed Exhibits 2-A, Water Supply Charge Receipts and 2-B, Water Supply Charge Availability Analysis that were provided in the staff report, and he responded to questions. In response to a request from the committee, Prasad stated that he would expand Exhibit 2-B to include a column that would show when the projects listed were expected to be completed and would, therefore, no longer require funding.

3. Discuss Performance of Reinstated District User Fee, To Date

Prasad reviewed Exhibit 3-A, MPWMD User Fee Revenue Collections FY 2020-2021, and he responded to questions. He noted that September User Fee revenues had not been incorporated into the chart, but he expected the total should be approximately \$550,000. He stated that if there were significant changes between budgeted and actual user fee receipts, the budget could

be adjusted at mid-year.

Birt Johnson left the meeting at 2:07 pm.
John Bottomley joined the meeting at 2:10 pm.

4. Discuss Action Taken by MPWMD Board at the October 19, 2020 Meeting

Stoldt reported that at the October 19, 2020 meeting the Board of Directors adopted a policy that if User Fee collections in a fiscal year exceeded the budgeted amount, then the excess would be applied in the following fiscal year budget in the following priority: First, prepayment of the Mechanics Bank Loan; Second, to repay reserves used for water supply project costs; and Third, to build a fund that could be used to offset and sunset the Water Supply Charge. Stoldt explained that when the User Fee is shown to provide a stable surplus, which could take 2 to 3 years, the Board could consider reducing the Water Supply Charge by a similar amount.

5. Discuss Elements of the February 2021 Annual Report to the Board of Directors

The committee members suggested the following items for inclusion in the report. (a) There was no agreement on whether to support or oppose funding Measure J expenditures from the Water Supply Charge. The committee members held differing opinions on that issue. (b) The District should investigate the percentage of delinquencies in payment of local Cal-Am water bills and how that would affect User Fee receipts. Stoldt mentioned that Cal-Am has told District staff that delinquency information could not be divulged by the publicly traded company. However, District staff believes the information would be available from other sources. (c) The committee supports the policy adopted by the Board regarding goals for use of the User Fee and the eventual sunset of the Water Supply Charge. Stoldt advised the committee that the draft report would be presented for review at the January 26, 2021 committee meeting, and then submitted to the Board of Directors in February 2021.

Other Items

6. Water Supply Project Update

No report.

Adjourn: The meeting was adjourned at 2:30 pm.

DISCUSSION ITEM

2. DISCUSS ROLL AND PURPOSE OF THE COMMITTEE

Meeting Date: March 24, 2021 **Budgeted:** N/A
From: David J. Stoldt **Program/** N/A
 General Manager **Line Item No.:**
Prepared By: David J. Stoldt **Cost Estimate:**

General Counsel Approval: N/A

Committee Recommendation: N/A

CEQA Compliance: This action does not constitute a project as defined by the California Environmental Quality Act Guidelines section 15378.

DISCUSSION: The Committee's "charge" is attached as **Exhibit 2-A**. However, with the passage of time actual practice has deviated from what is attached and will be discussed at the Committee meeting.

The Ordinance itself is attached as **Exhibit 2-B**.

EXHIBITS

2-A Committee Charge

2-B Ordinance 152



**MISSION AND RESPONSIBILITIES
OF THE MPWMD
ORDINANCE 152 CITIZEN'S OVERSIGHT PANEL**

Adopted by MPWMD Board 12/10/12

1. Primary Function

The Ordinance 152 Citizen's Oversight Panel (the "Panel") is a committee formed for the sole purpose of providing a forum for public involvement in the budgeting and expenditure of the District's annual Water Supply Charge. The Panel is directed to meet quarterly and review proposed expenditure of funds for the water supply activities of the District. The Board does not seek consensus from the Panel, but rather input on the ongoing budgeting and expenditure of revenues raised by the water supply charge on water supply related activities. The Panel will submit an annual report for consideration by the Board of Directors at its regular September meeting. The Panel is expected to visit District facilities – to be scheduled by the District – to become better acquainted with water supply projects and operations. The Panel will also, from time to time, be requested to provide community input with respect to water supply-related activities.

Pursuant to the Ordinance, proceeds of the water supply charge may only be used to fund District water supply activities, including capital acquisition and operational costs for Aquifer Storage and Recovery (ASR), Groundwater Replenishment (GWR), and desalination purposes, as well as studies related to project(s) necessary to ensure sufficient water is available for present beneficial water use in the main CAW system. In addition to direct costs of the projects, proceeds of this annual water supply charge may also be expended to ensure sufficient water is available for present beneficial use or uses, including water supply management, water demand management, water augmentation program expenses such as planning for, acquiring and/or reserving augmented water supply capacity, including engineering, hydrologic, legal, geologic, financial, and property acquisition, and for reserves to meet the cash-flow needs of the District and to otherwise provide for the cost to provide services for which the charge is imposed.

No more than fifteen (15%) of proceeds collected by reason of Ordinance No. 152 shall be used to fund general unallocated administrative overhead.

2. Process

The Panel will meet quarterly, beginning in January 2013. At each meeting, the Panel will receive a report from District staff on budget and expenditure of the water supply charge on water supply activities. Generally, the Panel's meetings will include these topics:

January: Review of actual December receipts and update on on-going spending

plans.

April: Review of actual April receipts (if available), discuss proposed budget and capital improvement plan for following fiscal year, and update on on-going spending plans

July: Overview of approved budget and proposed expenditure of funds on water supply activities, prepare prior year annual report, and update on on-going spending plans

October: Update on on-going spending plans.

The Panel meets the definition of a “legislative body” as defined by the Brown Act; therefore, all meetings shall be noticed and open to the public in compliance with the Brown Act.

3. Composition and Structure

- a) The Panel is comprised of 9 members who shall reside within the boundaries of the Monterey Peninsula Water Management District. Members of the Panel shall serve at the pleasure of the District Board.
- b) The Board shall appoint one member from a panel of three persons nominated by the Monterey Peninsula Taxpayers Association, and the Board shall appoint one member from a panel of three persons nominated by the Monterey County Association of Realtors, and
- c) Each Director shall appoint 1 member to the Panel. Appointee must reside within the District boundaries and may be associated with a community group, but does not have to officially represent any community group.
- d) Each appointee shall serve a term of two years, with terms expiring on January 1, or on the date the appointing Director vacates office as a member of the MPWMD Board of Directors, whichever shall occur first.
- e) A quorum of five (5) Panel members shall be required for an official meeting to be conducted. Action may be taken by majority vote of those Panel members present.
- f) The General Manager will serve as Chair to the Panel, for purposes of facilitating meetings. District staff will provide support to the committee as appropriate.



Adopted June 27, 2012 – Effective July 1, 2012

ORDINANCE NO. 152

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
IMPOSING AN ANNUAL WATER SUPPLY CHARGE TO FUND
WATER SUPPLY SERVICES, FACILITIES AND ACTIVITIES
NEEDED TO ENSURE SUFFICIENT WATER FOR PRESENT BENEFICIAL
WATER USE IN THE MAIN CALIFORNIA AMERICAN
WATER DISTRIBUTION SYSTEM**

FINDINGS

1. The Monterey Peninsula Water Management District (“District”) is organized and exists under the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977, and published at Water Code Appendix, Section 118-1, et seq.) (“District Law”).
2. Pursuant to Section 325 of the District Law, and except as otherwise limited by the District Law, the District has the power to do any and every lawful act necessary in order that sufficient water may be available for any present or future beneficial use or uses of the lands or inhabitants within the district, including, but not limited to, irrigation, domestic, fire protection, municipal, commercial, industrial, recreational, and all other beneficial uses and purposes.
3. Section 326 of the District Law authorizes the District to fix, revise, and collect rates and charges for the services, facilities, or water furnished by it, and authorizes the District to collect its rates and charges via the tax roll or other billing methods. Section 308 of the District Law authorizes the District, by resolution or ordinance, to fix and collect rates and charges for the providing of any service it is authorized to provide.
4. The District engages in a variety of activities that supply water to properties within the District via a distribution system owned by California American Water (CAW).
5. The District delivers water via the CAW distribution system because shared use of this system is a far more cost-effective means of delivery than construction and operation of a parallel, District-owned, distribution system and no public purpose would be served by

EXHIBIT 2-B

imposing rates sufficient to fund duplicative infrastructure.

6. Water made available by District supply activities is beneficially used by the properties served in this manner, and such water, though commingled with water from CAW sources, is not purchased by CAW from the District. Accordingly, it is appropriate that the users of that water fund the costs to provide it.
7. The District has previously collected a charge from water users via a surcharge on CAW's bills.
8. State Water Resources Control Board Order No. WR 95-10 dated July 6, 1995, (the "Carmel Valley Water Ruling") determined that CAW does not have the right to divert as much water from the Carmel River system as it did historically and is presently doing. Recognizing that the loss of a substantial portion of the water supply to the Monterey Peninsula, the SWRCB authorized CAW to continue these diversion levels until 2017, at which point alternative water supplies must be made available to avoid significant threats to the health, safety and welfare of residents, businesses, visitors and property owners on the Monterey Peninsula. The urgent need to provide additional water supply to meet the needs of the people of this region is complicated by the listing of the California red-legged frog and the steelhead trout as threatened species under the federal Endangered Species Act and limitation on production from the Seaside Groundwater Basis pursuant to the Superior Court's judgment in *California American Water Company v. City of Seaside*.
9. The District no longer has access to CAW bills, and, as a result of the Carmel Valley Water ruling faces an urgent need to supplement its water supplies to continue to serve properties that rely on District water supplies.
10. The purpose of this Ordinance is to replace and augment the former charge collected by CAW on its bills to water customers with a supply charge collected from owners of parcels that receive from the District through CAW's distribution system.
11. On June 12, 2012, the District's Board of Directors held a public hearing with respect to the supply charge imposed by this Ordinance ("Hearing"). The Hearing was well attended and all persons desiring to provide oral or written testimony to the Board had opportunity to do so.
12. As required by Article XIII D, Section 6 of the California Constitution, on April 26, 2012 notice of the Hearing was mailed to the record owner of each parcel upon which the Supply Charge will be imposed. That notice included: (i) a rate table setting forth the amount of the proposed Supply Charge, (ii) the basis upon which the amount of the

EXHIBIT 2-B

Supply Charge was calculated, (iii) the reason for the Supply Charge, (iv) the date, time, and location of the Hearing and (iv) information about how to submit a written protest against the Supply Charge.

13. The District accepted written protests against the Supply Charge pursuant to the procedures established by the Board in its Resolution No. 2012-3. Following the close of public testimony at the Hearing, the Board continued its consideration of the matter to June 19, 2012 to give District staff time to tabulate protests in the manner required by Resolution No. 2012-3.
14. The District received 15,709 raw protests. Of these, 207 lacked required information or were submitted with respect to property clearly outside of the boundaries of the District; 2,114 were duplicates of valid protests; and an additional 3,045 were submitted with respect to parcels not subject to the Supply Charge. Therefore, valid protests were received with respect to 10,343 parcels subject to the Supply Charge. All protests are now public records of the District and have been considered by the Board.
15. 30,509 parcels are subject to the Supply Charge. A majority protest against the Supply Charge would therefore require 15,255 valid written protests. Therefore, a majority protest against the Supply Charge does not exist. Because this Supply Charge is a property-related charge for water service, as that term is defined by law, no election is required pursuant to Article XIII D, § 6(c) of the California Constitution and the District's compliance with Proposition 218 is complete.
16. The rate of the Supply Charge is supported by a Technical Memorandum dated April 12, 2012 prepared by the District's rate-making consultant, Bartle Wells and Associates, ("Technical Memorandum") which has been reviewed by the Board and is available for public inspection in the Office of the District.
17. The Supply Charge will fund only a portion of the District's actual costs to provide water supply services. Therefore, the Supply Charge does not exceed the funds required to provide those services.
18. Supply Charge proceeds will be expended only to fund water supply services and for no other purpose.
19. The Supply Charge is a charge upon real property. The amount of the Supply Charge imposed upon a parcel will not exceed the proportional cost of supply services attributable to the parcel for the reasons stated in the Technical Memorandum and elsewhere in the record of this rate-making.

EXHIBIT 2-B

20. Only parcels that receive water via the segments of the CAW water system that carry District-supplied water are subject to the Supply Charge. Parcels that are not connected to the system via an active meter are not subject to the Supply Charge. Parcels connected to the system via an active meter but not occupied are subject to a reduced charge to reflect the diminished service received by such properties. Consequently, supply services are actually used by, or immediately available to, the owner of each parcel that will be charged a Supply Charge.

21. This Ordinance imposes a charge for ongoing services to the existing territory of the District. Consequently, its adoption is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Public Resources Code Section 21080(b)(8) and 14 CCR 15273.

22. Although proceeds from the Supply Charge may fund capital projects that might physically affect the environment, such capital projects will be subject to CEQA review on a project-by-project basis. Accordingly, CEQA review of the use of the proceeds of the Supply Charge would be unduly speculative at this time and therefore this action is not a "project" as the term is defined in Public Resources Code Section 21065 and 15 CCR 15002(d), 15378 and 15061(b)(3).

NOW THEREFORE be it ordained as follows:

EXHIBIT 2-B

ORDINANCE

Section One: Short Title

This Ordinance shall be known as the 2012 Water Supply Charge Ordinance of the Monterey Peninsula Water Management District.

Section Two: Findings

The Findings above are determined to be true and correct, and are adopted as though fully set forth herein.

Section Three: Purposes

Proceeds of the charge imposed by this Ordinance may only be used to fund District water supply activities, including capital acquisition and operational costs for Aquifer Storage and Recovery (ASR) and Groundwater Replenishment (GWR) purposes, as well as studies related to project(s) necessary to ensure sufficient water is available for present beneficial water use in the main CAW system. In addition to direct costs of the projects, proceeds of this annual water supply charge may also be expended to ensure sufficient water is available for present beneficial use or uses, including water supply management, water demand management, water augmentation program expenses such as planning for, acquiring and/or reserving augmented water supply capacity, including engineering, hydrologic, legal, geologic, financial, and property acquisition, and for reserves to meet the cash-flow needs of the District and to otherwise provide for the cost to provide services for which the charge is imposed.

No more than fifteen (15%) of proceeds collected by reason of Ordinance No. 152 shall be used to fund general unallocated administrative overhead.

Section Four: Charge Imposed

The owner of each parcel of real property connected to the main CAW Water Distribution System, excluding the Bishop, Hidden Hills, Ambler, and Toro sub-units (which will not receive the service for which the charge is imposed), shall pay the District an annual water service charge. The amount of the charge on each parcel shall be calculated as set forth in Section 5 of this ordinance. This is a charge by the District to parcels on the CAW system that receive water via the CAW system that is sourced, in whole or in part, from the District's water supply activities. The charge for each fiscal year shall be due and payable on July 1 of that fiscal year. The Board of Directors may, by ordinance or resolution, change the method of collection for the charge by (i) providing that the annual charge be collected in installments over time, (ii)

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providing that the charge will be collected along with property taxes on the property tax roll, or (iii) providing the charge will be billed by the District or included on the bill of any utility that consents to such inclusion. The District may set penalties for nonpayment as permitted by District Law section 326(g).

Section Five: Table of Annual Water Supply Charges by Use Category

The annual water supply charge for each parcel by user category is calculated as follows:

$$\begin{matrix} \text{Annual} \\ \text{Water} \\ \text{Supply} \\ \text{Charge} \end{matrix} = \begin{matrix} \text{Meter Fee} \\ \text{Based on} \\ \text{Meter Size} \end{matrix} + \left[\begin{matrix} \text{Water} \\ \text{Usage Fee} \\ \text{Per Unit} \end{matrix} \times \begin{matrix} \text{\# of} \\ \text{Units} \end{matrix} \right]$$

That is, the annual charge is the sum of the parcel user’s meter fee based on the size of the meter (from Table 1,) and the water usage fee per unit multiplied by the number of units for that parcel use (from Table 2.) Meter size is a measure of potential demand on a water system (i.e., the volume of service a utility must be prepared to supply) and water volume is a measure of actual demand (i.e., the volume of service a utility actually supplies). Both measures are appropriately used to make charges proportionate to the cost of service attributable to a parcel. Because the District does not have access to meter readings collected by CAW at the point of delivery, it is not feasible to use metered data to calculate the volume of water served to each property; accordingly, industry-standard estimates based on the use of each parcel are employed.

Table 1: Meter Fee Based on Meter Size

Meter Size	Single-Family		
	Residence Meter Fee	Multi-Family Meter Fee	Non-Residential Meter Fee
5/8 x 3/4"			
Small house (less than 1,200 sq ft)	\$14.31		
Medium house (1,200 to 2,000 sq ft)	\$16.84		
Medium/large house (2,000 to 4,000 sq ft)	\$19.36		
Large house (4,000 sq ft+)	\$19.36		
5/8 x 3/4" multi-family or commercial		\$12.64	\$22.57
3/4"	\$25.27	\$18.97	\$33.85
1"	\$42.10	\$31.62	\$56.42
1 1/2"	\$84.19	\$63.22	\$112.84
2"	\$134.70	\$101.15	\$180.54
3"	\$252.57	\$189.66	\$338.52
4"	\$420.95	\$316.11	\$564.20
6"	n/a	\$632.21	\$1,128.40
8"	n/a	\$1,011.54	\$1,805.43

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Table 2: Water Usage Fee per Unit

Description	Water Usage Fee per Unit	Unit
Small house (less than 1,200 sq ft)	\$24.75	per single family home
Medium house (1,200 to 1,999 sq ft)	\$38.50	per single family home
Medium house (2,000 to 3,999 sq ft)	\$77.00	per single family home
Large house (4,000 sq ft+)	\$154.00	per single family home
Vacant house	50%	Of non-vacant fee
Multifamily Property	\$20.90	per multifamily unit
Business/Govt 1 to 10 employees	\$52.80	per location/each business
Business/Govt 11 to 20 employees	\$105.60	per location/each business
Business/Govt 21 to 30 employees	\$158.40	per location/each business
Rate Increases for Business/Govt	\$52.80	increase per every 10 employees
Hotel/Motel	\$32.17	per room
Bed and Breakfast	\$21.54	per room
Supermarket	\$261.42	per location/each business
Medical Office	\$45.11	per licensed physician
Dental Office	\$61.09	per licensed physician
Rest Home	\$20.03	per bed of licensed capacity
General Hospital	\$118.65	per bed of licensed capacity
Animal Hospital	\$138.98	per location/each business
Restaurant 1 meal/day	\$2.43	per seat
Restaurant 2 meals/day	\$3.79	per seat
Restaurant 3 meals/day	\$7.28	per seat
Restaurant w/bar	\$9.71	per seat
Bar	\$79.91	per location/each business
Nightclub	\$233.45	per location/each business
Takeout Food - small	\$82.39	1 cash register or checkout lane
Takeout Food - medium	\$211.66	2 or 3 cash registers or checkout lanes
Takeout Food - large	\$372.03	4+ cash registers or checkout lanes
Bakery	\$101.81	per location/each business
Theater	\$109.24	per screen
Bowling Center	\$491.59	per location/each business
Gym	\$52.80	per 500 members
Mortuary	\$128.06	per location/each business
School Minimum	\$52.80	per location
School (Grades 0-6)	\$0.91	per student
School (Grades 7- college)	\$1.82	per student
Boarding School	\$23.21	per student
Instructional Facility	\$52.80	per location/each business
Church (0 to 100 members)	\$52.80	per location
Church (over 100 members)	\$105.60	per location
Photo Developer	\$52.80	per location
Laboratory	\$52.80	per 10 employees
Printer	\$52.80	per 10 employees
Service Station	\$52.80	per 10 employees
Auto Painters/Body Shop	\$52.80	per location
Rate Increases for Previous 4 Categories	\$52.80	increase per every 10 employees
Dry Cleaner	\$67.49	per location/each business
Laundromat	\$21.24	per each washing machine
Mobile Home	\$32.17	per living unit
Golf Course/City Parks/Cemeteries/Other Irrigated Area	\$105.60	per acre
Vacant Commercial	\$26.40	per location/each business
Temporarily Suspended (no active meter)	\$0	per location/each business
Special Users (determined individually)	\$52.80	Fee proportional to average business user, not to exceed \$2500.

EXHIBIT 2-B

Section Six: Administrative Review and Appeals

A. Purpose for Review. The General Manager is directed to administer a process to enable administrative review and appeals to remedy potential error in the allocation of the annual water supply charge imposed by this ordinance, to enable property to be reclassified to a different use category as appropriate, to consider unique circumstances, or to otherwise reduce or waive the water supply charge when warranted to ensure the charge is fair, reasonable and proportional to the cost of service attributable to the parcel on which the charge is imposed. Any property owner or charge payor may submit a claim to request an exemption, in full or in part, from charges imposed by this ordinance in the manner provided below.

B. Claim Presentation. Any claim under this section shall be signed by the claimant or by some person on his or her behalf and verified by the claimant or by claimant's guardian, conservator, executor or administrator. Each claim shall be presented to the District by personal delivery or mail to the General Manager. Each claim shall set forth:

- (1) The name and address of the claimant;
- (2) The address to which the person presenting the claim desires notices to be sent;
- (3) The circumstances which gave rise to the claim;
- (4) The street address(es) and Assessor's Parcel Number(s) (APN) of each property to which the claim may be applicable;
- (5) The facts to demonstrate that (i) an error has been made in the allocation of the charge imposed by this ordinance, (ii) it is appropriate to reclassify a parcel to a different use category, (iii) unique circumstances require adjustment of the charge so that it is proportionate to the cost of providing the service attributable to the parcel, (iv) the charge charged is not reasonable, fair, and proportional to the cost of service attributable to the parcel, or (v) that water service for which the charge is imposed is not actually used by or immediately available to the property in question.
- (6) The verified signature of each claimant (or the signature of each claimant's guardian, executor, conservator, or administrator) together with a contemporaneous statement that the information on the claim has been provided under penalty of perjury;
- (7) Any claim filed on behalf of more than one person shall be verified by each person on behalf of whom the claim is filed or by claimant's guardian, conservator, executor or administrator;
- (8) Any claim to recover money previously paid to the District may be filed by any person or the person's guardian, executor, conservator or administrator only if the payment, at the time it was first tendered, had been accompanied by a written statement, signed by the claimant or claimant's guardian, executor, conservator or administrator which states that the payment was made under protest, or other basis, providing notice to District that the

EXHIBIT 2-B

payment was contested. This provision shall not be construed to relieve any person of the obligation to make full payment of any money due to the District.

C. Class or Representative Claims. No claim may be filed on behalf of a class of claimants, or on behalf of any person other than the person filing the claim, unless the membership of the class is identified with particularity; and unless the verified signature of each member of the class (or the signature of each class member's guardian, executor, conservator, or administrator) is appended to the claim; and that any claim filed on behalf of a class of claimants shall be further limited to persons who have tendered payments under written protest during the 365 days immediately preceding the filing of the class claim.

D. Untimely Claims. No refund of any charge shall be allowed unless the amount paid was tendered together with written protest filed with the District by claimant or by claimant's guardian, executor, conservator. No refund of any charge shall occur for charges paid more than 365 days prior to the date of the claim.

E. Time of Presentation and Receipt. A claim for recovery of any money paid under protest shall be filed in writing with the District by claimant or by claimant's guardian, executor, conservator, or administrator no later than 365 days after the date the payment was made.

F. Notice of Insufficiency. If, the General Manager, or his or her designee, determines that a claim, as presented, fails to comply substantially with the requirements of this chapter, the General Manager or his or her designee may, at any time within 30 days after the claim is presented, give written notice of its insufficiency, stating with particularity the defects or omission therein. Failure of the District to provide notice of insufficiency shall not operate as a waiver of any defenses the District may have based on the sufficiency of the claim.

G. Initial Review. Each claim shall be screened by the General Manager or his or her designee within 30 days after the claim has been determined to be sufficient. At this initial review and without conducting a hearing, the General Manager or his or her designee may act to adjust the charge in full or in part, as warranted, upon determining facts support the adjustment under the standards of subparagraph B.(5) of this section.

H. Administrative Hearing. For those circumstances where the Initial Review does not resolve the claim, the General Manager or his or her designee shall convene a hearing, following 15 days written notice to the claimant, to review facts and issues supporting the claim. After the hearing, the General Manager shall take the matter under submission and thereafter render a written decision, based on substantial evidence presented at the hearing, to adjust the charge in full or in part, or to deny the claim. Written notice of this decision shall be delivered to the claimant.

EXHIBIT 2-B

Notice shall be mailed to the address, if any, stated in the claim as the address to which the person presenting the claim desires notice to be sent. If no such address is given, notice may be mailed to any address the claimant sets forth in the claim or otherwise known to the District.

I. Administrative Appeal. Any claimant may contest the decision of the General Manager, and request a hearing de novo before the District board of directors, by submitting a written request within 15 calendar days after the date the General Manager's decision was provided to the claimant. At its next regular meeting, or at such other time that may be set by action of the board of directors, the board shall convene a hearing to review facts and issues supporting the claim and based on substantial evidence presented at the hearing may adjust the charge, in full or in part, or may deny the claim. Written notice of this decision shall be delivered in the same manner as required for notice of the Administrative Hearing, provided the Notice shall further advise the claimant that District Rule 16 and the California Code of Civil Procedure §1094.6 govern the time within which judicial review must be sought of this decision.

J. Limitations. No suit for the recovery of any charge paid or owing by any person against the District shall be filed in any court of law unless a claim has first been filed and rejected in accord with the provisions of this ordinance.

K. Time-barred Claims. This ordinance shall not be construed to revive or reinstate any cause of action that, on the effective date of this ordinance, is barred by failure to comply with any applicable statute, ordinance or regulation requiring the presentation of a claim prior to a suit for recovery of money or damages, or by the failure to commence any action thereon within the period described by applicable statute of limitations. No provision of this ordinance shall authorize payment of untimely claims.

Section Seven: Collection of Delinquent Payment, Costs and Penalties

A. Dependent upon the collection method(s) selected by the District Board, which may be enabled by District resolution or ordinance and which may be modified from time to time, payment schedules may be available for the annual water supply charge enabled by this Ordinance.

B. Except when allowed pursuant to an authorized installment payment schedule, if all or part of the charge is not paid on its due date, (a) the District may discontinue any or all services or facilities for which the bill is rendered; (b) a basic penalty of 10 percent shall be imposed for delinquent payment; (c) a penalty of one-half of 1 percent per month shall be imposed for nonpayment of the charges and the basic penalty; and (d) collection of the charge and penalties the District may be made as a lien upon the real property and collectible at the same time and in

EXHIBIT 2-B

the same manner as taxes and assessments are so collected upon such real property in accord with District law. In addition, the charge imposed by this ordinance, together with penalties and interest at the legal rate thereon, constitute a debt owed to the District by the owner and occupants, jointly and severally, of the property to which the service is provided and the District may sue on that debt in any court of competent jurisdiction. Remedies for collection and enforcement are cumulative, and may be pursued alternatively or consecutively by the General Manager. The District may, from time to time, adopt by resolution or ordinance such other penalties and delinquency collection mechanisms allowed by law.

Section Eight: Publication and Application

This Ordinance shall not cause amendment or republication of the permanent Rules and Regulations of the Monterey Peninsula Water Management District. This Ordinance shall be read in conjunction with and complement those provisions of the District's Rules and Regulations. All definitions used in the District Rules and Regulations shall apply to this Ordinance.

Section Nine: Citizen's Oversight Panel

Within sixty days of the effective date of this ordinance, the District Board shall create a nine member "Ordinance 152 Citizen's Oversight Panel" as an advisory board to the Board of Directors. Members of the Panel shall serve at the pleasure of the District Board, and shall be appointed as follows: the Board shall appoint one member from a panel of three persons nominated by the Monterey Peninsula Taxpayers Association, and the Board shall appoint one member from a panel of three persons nominated by the Monterey County Association of Realtors, and each Director shall appoint one member.

The District Board shall adopt bylaws for the Panel which shall ensure the Panel meets on a quarterly basis, as needed, and that its meetings comply with the Ralph M. Brown Act. Duties of the Panel shall be limited to issuing an annual report and providing advice to the District Board. Expenditure of funds or use of staff resources shall require approval of the District Board.

Section Ten: Effective Date; Review Requirement; Sunset

A. This Ordinance shall take effect at 12:01 a.m. on July 1, 2012. This Ordinance shall not have a sunset date, provided however, that charges set by this Ordinance shall not be collected to the extent proceeds exceed funds required to achieve the Purposes of this Ordinance, as set forth in Section Three or as described in the Findings referenced in Section Two.

EXHIBIT 2-B

B. So long as this annual water supply charge is collected, the Board of Directors shall hold a public hearing each calendar year in connection with review of the annual District budget. At that time, the Board shall review amounts collected and expended in relation to the purposes for which the charge is imposed. The District shall require the annual water supply charge to sunset in full or in part unless the Board determines that the purpose of the charge is still required, and the amount of the charge is still appropriate and less than the proportionate cost of the service attributable to each parcel on which the charge is imposed. If the purpose is fully accomplished, the charge shall be required to sunset. If the purpose for the charge is determined to continue, but amounts needed to fund that purpose are decreased, the charge shall be reduced to that lesser amount. In the event aggregate annual charge collections are insufficient to fund all appropriate purposes to which the charge may be expended, the Board may determine, in its sole discretion, the extent to which any purpose or purposes shall be funded provided that the charge does not exceed the proportionate cost of the service attributable to each parcel on which the charge is imposed.

C. Notwithstanding any other provision of this Ordinance, the District shall not collect a water supply charge pursuant to this Ordinance: (a) in Fiscal Year 2018-19 (or any subsequent fiscal year) if no District project is identified and determined by the Board of Directors to have been underway as of December 31, 2017, (b) to the extent alternative funds are available via a charge collected on the California American Water Company bill, or (c) to the extent the Board of Directors determines that the charge (or portion thereof) is no longer required because bonds financing a specific project having been repaid.

Section Eleven: Delegation

The General Manager is directed to execute all documents and perform all tasks necessary to implement the effect and purpose of this Ordinance. The delegation of authority extends to billing and collection of the charge enacted herein, together with collection of charges and penalties for non-payment. The delegation of authority also authorizes the General Manager to tender payment on any claim for money previously paid to the District filed in accord with this ordinance, if approved according to the terms provided herein.

Section Twelve: Severability

If any subdivision, paragraph, sentence, clause or phrase of this Ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or enforcement of the remaining portions of this Ordinance, or of any other provisions of the District Rules and Regulations. It is the District's express intent that each remaining portion would have been adopted irrespective of the fact that one or more

EXHIBIT 2-B

subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

Section Thirteen: Limitation on Modification

No subdivision, paragraph, sentence, clause or phrase of this Ordinance shall, for any reason, be amended by the District Board unless the District Board: (a) conducts a hearing on the proposed amendment, (b) causes mailed notice of the hearing to be given in the manner set forth in Article XIII D of the California Constitution, (c) accepts protests against the amendment in the manner set forth in Article XIII D of the California Constitution, and (d) determines that a majority protest to the modification does not exist. Notwithstanding the foregoing, the District Board may, without complying with the foregoing sentence, amend this Ordinance to (i) temporarily suspend the Supply Charge, (ii) reduce the rate of the Supply Charge, or (iii) repeal this ordinance in its entirety. Furthermore, nothing in this paragraph shall be construed to create notice, protest or hearing rights (if not otherwise created by state or federal law) with respect to any action taken by the Board of Directors for the purpose of complying with any (i) court order, (ii) published appellate court or federal court decision (including a decision in a case to which the District is not a party), (iii) change in statutory law, or (iv) amendment to the California or federal constitutions.

On motion by Director Brower, and second by Director Markey, the foregoing Ordinance is adopted upon this 27th day of June 2012, by the following vote:

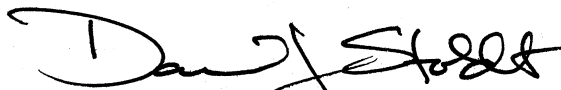
AYES: Brower, Markey, Byrne, Lehman, Lewis, Pendergrass

NAYS: Potter

ABSENT: None

I, David J. Stoldt, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing is a full, true and correct copy of an ordinance duly adopted on the 27th day of June 2012.

Witness my hand and seal of the Board of Directors this 27th day of June 2012.

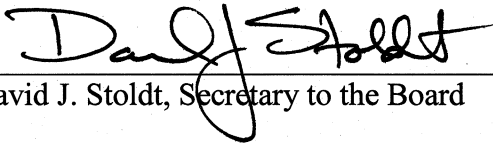


David J. Stoldt, Secretary to the Board

EXHIBIT 2-B

COPY CERTIFICATION

I, David J. Stoldt, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing is a full, true and correct copy of Ordinance No. 152 duly adopted on the 27th of June, 2012.



David J. Stoldt, Secretary to the Board

6-28-12
Date

DISCUSSION ITEM

3. DISCUSS KEY ISSUES IN THE PAST AND ANNUAL REPORT TO THE BOARD OF DIRECTORS

Meeting Date:	March 24, 2021	Budgeted:	N/A
From:	David J. Stoldt General Manager	Program/ Line Item No.:	N/A
Prepared By:	David J. Stoldt	Cost Estimate:	

General Counsel Approval: N/A

Committee Recommendation: N/A

CEQA Compliance: This action does not constitute a project as defined by the California Environmental Quality Act Guidelines section 15378.

DISCUSSION: To gain an understanding of what previous Committees found as key issues, all the previous annual reports to the Board are attached as **Exhibit 3-A**.

EXHIBIT

3-A Ordinance No. 152 Oversight Panel Prior Annual Reports

Ordinance 152 Citizens Oversight Panel

2019 Annual Report

2019 Recommendations

The following areas of discussion represent five key topics the Panel has identified of particular interest or concern during the recent calendar year.

1. **Measure J Costs:** A portion of the panel believes that the Water Supply Charge was intended for projects to solve the region's longstanding water supply problem and should not be used to fund any of the costs related to Measure J. That includes the cost of the feasibility study, costs related to a "right to take" bench trial, the costs related to a subsequent jury trial to establish fair compensation, and/or the costs of acquisition. The Panel was provided an outside legal opinion that the Water Supply Charge may be used for such Measure J costs and remains divided on the issue.
2. **Mechanics Bank Loan and Other District Obligations:** The Panel urges the District to develop a plan to retire the Mechanics Bank (formerly Rabobank) loan that was initiated to pay for the Aquifer Storage and Recovery water supply project in a timely fashion after the District's User Fee was suspended by the CPUC.
3. **Dual Collection of the Water Supply Charge and District User Fee:** The User Fee began collection in July 2017. The Panel recognizes the plan adopted by the District Board in April 2016 to collect both fees for a 3-year period because: (i) the User Fee would primarily fund programs already in Cal-Am surcharges (District conservation and river mitigation), so there was little "new" revenue; (ii) there were still large near-term expenditures required on water supply projects; and (iii) Cal-Am had a recent history of significant revenue undercollection, so it made sense to have a period of collection until the predictability of the User Fee revenue was better known. However, the Panel reminds the Board that June of 2020 will be the end of the third year of dual collection, therefore it is time to begin a plan for their use, including reductions or possible sunsets of either or both.
4. **Reserve Policies:** The Panel believes that the District should focus on its reserve policies and set criteria and determine funding sources for each and determine the impact, if any, on the sunset of the Water Supply Charge. Such reserves should include capital renewal and replacement, capital equipment, flood/drought reserve, and Pure Water Monterey operating and drought reserves. Reserves for PERS and OPEB liabilities, litigation/insurance, and general fund reserves should also be considered, but such are most likely funded from the District's User Fee.

EXHIBIT 3-A

5. **Local Projects:** The Panel continues to support the use of a portion of the Water Supply Charge for Local Projects, such as the Pacific Grove non-potable water source and the Airport well repurposing. As such, the Panel recommends appropriation of a similar sum of money from the Water Supply Charge from future budgets to the extent projects can be identified.

Respectfully submitted by the Ordinance 152 Citizens Oversight Panel, February 19, 2020.

Ordinance 152 Citizens Oversight Panel

2018 Annual Report

2018 Recommendations

The following areas of discussion represent three key topics the Panel has identified of particular interest or concern during the recent calendar year.

1. **Measure J Costs:** The panel believes that the Water Supply Charge was intended for projects to solve the region's longstanding water supply problem and should not be used to fund any of the costs related to Measure J. That includes the cost of the feasibility study, costs related to a "right to take" bench trial, the costs related to a subsequent jury trial to establish fair compensation, and/or the costs of acquisition.
2. **Dual Collection of the Water Supply Charge and District User Fee:** The User Fee began collection in April 2017. The Panel recognizes the plan adopted by the District Board in April 2016 to collect both fees for a 3-year period because: (i) the User Fee would primarily fund programs already in Cal-Am surcharges (District conservation and river mitigation), so there is little "new" revenue; (ii) there are still large near-term expenditures required on water supply projects; and (iii) Cal-Am has a recent history of significant revenue under collection, so it makes sense to have a period of collection until the predictability of the User Fee revenue is better known.

Therefore, the Panel reminds the Board that the next fiscal year will be the third year of dual collection, therefore it is time to begin a plan for their use, including reductions or possible sunsets of either or both.

3. **Rabobank Loan and Other District Obligations:** The Panel urges the District to develop a plan to retire the Rabobank loan that was initiated to pay for the Aquifer Storage and Recovery water supply project in a timely fashion after the District's User Fee was suspended by the CPUC.

Respectfully submitted by the Ordinance 152 Citizens Oversight Panel, April 15, 2019.

Ordinance 152 Citizens Oversight Panel

2017 Annual Report

2017 Topics of Discussion

The following areas of discussion represent five key topics the Panel has identified of particular interest or concern during the recent calendar year.

1. **Reinstatement of District User Fee:** District Ordinance No. 152 which established the Water Supply Charge states in its Section 10.C(b) that the District shall not collect a Water Supply Charge “to the extent alternative funds are available via a charge collected on the California American Water Company bill.” On January 25, 2016 the California Supreme Court filed its opinion in the suit the District brought against the California Public Utilities Commission (CPUC or PUC), determining to reinstate the User Fee.

The User Fee began collection in July 2017. Therefore, the Panel reminds the Board to examine its needs and availability of its two primary funding sources and develop a plan for their use, including reductions or possible sunsets of either or both.

The Citizens Oversight Panel cautiously supports the plan adopted by the District Board in April 2016 to collect both fees for a 3-year period for 4 key reasons: (i) the User Fee would primarily fund programs already in Cal-Am surcharges (District conservation and river mitigation), so there is little “new” revenue; (ii) the Monterey Peninsula Taxpayers Association lawsuit over the Water Supply Charge remains unresolved, hence that revenue remains at risk; (iii) there are still large near-term expenditures required on water supply projects; and (iv) Cal-Am has a recent history of significant revenue undercollection, so the viability of the User Fee is at risk until the CPUC rules on a more stable rate design, and the predictability of the User Fee revenue is better known. After that time, begin to sunset or reduce collections of either or both, if possible.

The panel believes progress is being made on a permanent water supply solution for which large scale expenditure of District funds are being made. A 3-year “wait-and-see” period through June 2020 makes sense. However, the Panel expects the District to maintain fiscal discipline and keep its financial “house in order.”

The Panel believes that during this period the District should (a) develop a meaningful plan to sunset the Water Supply Charge, in whole or in part, and (b) develop a plan to retire the Rabobank loan that was initiated to pay for the Aquifer Storage and Recovery water supply project in a timely fashion after the District’s User Fee was suspended by the CPUC.

EXHIBIT 3-A

2. **15% Overhead Calculation:** The District presently allocates “indirect labor, supplies, and services” to the calculation of overhead. However, the District continues to include certain labor costs of the General Manager, division managers, and other staff as direct costs of “water supply.” Some members of the Panel believe that some costs identified by the District as direct costs should not be included as overhead. District staff disagrees. The Panel will continue to examine levels of associated overhead.
3. **Deficit Spending:** The Pure Water Monterey groundwater replenishment (GWR) project budget continues to cause the District to incur the use of reserves. It is expected that the practice will no longer be necessary now that construction has begun and costs are reimbursed through a State Revolving Fund loan. However, we understand planning for possible expansion, as well as the treatment cost of water from the project that goes into reserves is a cost of the District until that water is sold to Cal-Am. The Panel is very concerned about future claims on the Water Supply Charge which impairs the ability of the District to “sunset” the charge in a timely fashion.
4. **Local Projects:** The Panel continues to support the use of a portion of the Water Supply Charge for Local Projects, such as the Pacific Grove non-potable water source, the Airport well repurposing, the Monterey regional stormwater planning, and the Del Monte Golf course alternate supply project. As such, the Panel recommends continuing the program where possible.
5. **The Monterey Peninsula Taxpayers Association lawsuit:** We understand that the appeal of the lawsuit has been heard and a decision is expected by the end of May, hence that revenue remains at risk. The Panel will expect an update following the decision and how the outcome affects the 3-year transition plan.

Respectfully submitted by the Ordinance 152 Citizens Oversight Panel, March 19, 2018

Ordinance 152 Citizen's Oversight Panel

2014 Annual Report

2013-14 Topics of Discussion

The following areas of discussion represent five key topics the Panel has identified of particular interest or concern.

1. **15% Overhead Calculation:** The District presently allocates “indirect labor, supplies, and services” to the calculation of overhead. However, the District continues to include certain labor costs of the General Manager, division managers, and other staff as direct costs of “water supply.” Some members of the Panel believe that several costs identified by the District as direct costs should be included as overhead. District staff disagrees.
2. **Deficit Spending:** Given the mid-year budget adjustment to the Pure Water Monterey groundwater replenishment (GWR) project budget, the District did not identify a current source of funds for all costs and will, in fact, incur borrowing from the credit line or use of reserves to meet some GWR costs. It is expected that the practice will continue in the 2014-15 budget for GWR. Such near-term borrowing to meet current pay-as-you-go capital costs is expected by the District to be repaid from future Water Supply Charge collections. The Panel is very concerned that obligating future collections does not result in a balanced budget and results in future claims on the Water Supply Charge which impairs the ability of the District to “sunset” the charge in a timely fashion.
3. **GWR Overhead:** The Panel does not necessarily agree that MRWPCA internal staff costs should be charged to the GWR project and would like additional information about overhead charged to the project.
4. **Measure O Initiative:** District staff has indicated that it believes that Ordinance 152 would allow the Water Supply Charge to be utilized for the proposed feasibility study should Measure O be passed by the voters on June 3rd. To the contrary, at its January 2014 meeting the Panel unanimously agreed that use of the Charge for such purposes is inappropriate and strongly urges the District Board to avoid designating the Water Supply Charge for such purposes.
5. **Local Projects:** The Panel continues to support the use of a portion of the Water Supply Charge for Local Projects, such as the Pacific Grove non-potable water source and the Airport well repurposing. As such, the Panel recommends appropriation of a similar sum of money from the Water Supply Charge for the FY 2014-15 budget.

EXHIBIT 3-A

Primary Panel Function

The Ordinance 152 Citizen's Oversight Panel (the "Panel") is a committee formed for the sole purpose of providing a forum for public involvement in the budgeting and expenditure of the District's annual Water Supply Charge. The Panel is directed to meet quarterly and review proposed expenditure of funds for the water supply activities of the District. The Board does not seek consensus from the Panel, but rather input on the ongoing budgeting and expenditure of revenues raised by the water supply charge on water supply related activities. The Panel will submit an annual report for consideration by the Board of Directors. This document serves as that annual report. In the Panel's by-laws, the report is to be submitted at the September Board meeting, however, the initial panel was not constituted until December 2012, meeting for the first time in early 2013. Hence, the first year of the Panel's activities just closed.

Also under its by-laws, the Panel is expected to visit District facilities – to be scheduled by the District – to become better acquainted with water supply projects and operations. During the past year, the Panel visited the Aquifer Storage and Recovery site and heard a presentation on the Pure Water Monterey Groundwater Replenishment project.

The Panel will also, from time to time, be requested to provide community input with respect to water supply-related activities. One key area during the past year was the Panel's encouragement of the creation of funding for Local Water Project, as discussed more within this report.

Pursuant to the Ordinance, proceeds of the water supply charge may only be used to fund District water supply activities, including capital acquisition and operational costs for Aquifer Storage and Recovery (ASR), Groundwater Replenishment (GWR), and desalination purposes, as well as studies related to project(s) necessary to ensure sufficient water is available for present beneficial water use in the main CAW system. In addition to direct costs of the projects, proceeds of this annual water supply charge may also be expended to ensure sufficient water is available for present beneficial use or uses, including water supply management, water demand management, water augmentation program expenses such as planning for, acquiring and/or reserving augmented water supply capacity, including engineering, hydrologic, legal, geologic, financial, and property acquisition, and for reserves to meet the cash-flow needs of the District and to otherwise provide for the cost to provide services for which the charge is imposed. No more than fifteen (15%) of proceeds collected by reason of Ordinance No. 152 shall be used to fund general unallocated administrative overhead.

Panel Composition

The Panel meets the definition of a "legislative body" as defined by the Brown Act; therefore, all meetings shall be noticed and open to the public in compliance with the Brown Act.

EXHIBIT 3-A

The Panel is comprised of 9 members who shall reside within the boundaries of the Monterey Peninsula Water Management District. Members of the Panel shall serve at the pleasure of the District Board.

The Board shall appoint one member from a panel of three persons nominated by the Monterey Peninsula Taxpayers Association, and the Board shall appoint one member from a panel of three persons nominated by the Monterey County Association of Realtors, and each Director shall appoint 1 member to the Panel. Appointees must reside within the District boundaries and may be associated with a community group, but does not have to officially represent any community group.

- a) Each appointee shall serve a term of two years, with terms expiring on January 1, or on the date the appointing Director vacates office as a member of the MPWMD Board of Directors, whichever shall occur first.
- b) A quorum of five (5) Panel members shall be required for an official meeting to be conducted. Action may be taken by majority vote of those Panel members present.
- c) The General Manager will serve as Chair to the Panel, for purposes of facilitating meetings. District staff will provide support to the committee as appropriate.

DISCUSSION ITEM

4. REVIEW SOURCES AND USES OF DISTRICT WATER SUPPLY FUNDING TO DATE

Meeting Date: March 24, 2021 **Budgeted:** N/A
From: David J. Stoldt **Program/** N/A
 General Manager **Line Item No.:**
Prepared By: David J. Stoldt **Cost Estimate:**

General Counsel Approval: N/A
Committee Recommendation: N/A
CEQA Compliance: This action does not constitute a project as defined by the California Environmental Quality Act Guidelines section 15378.

DISCUSSION: From July 1, 2012 through January 31, 2021 – the period over which the Water Supply Charge has been collected – expenditures for water supply related activities have actually exceeded collected revenues from the Water Supply Charge, as shown below:

Water Supply Projects	\$38,144,705
Personnel Related to Water Supply	10,696,395
Services & Supplies	3,902,351
Equipment/Capital	335,296
Debt Service on ASR Loan	<u>1,758,354</u>
Total Expended on Water Supply	\$54,837,101
Water Supply Charge Collected	<u>29,113,595</u>
Net Undercollected	\$25,723,506
Reimbursements and Grants	<u>15,118,475</u>
Net Subsidy to Water Supply	\$10,605,031

The figures above are only those assigned to our water supply function, hence do not include water conservation, permitting, or environmental stewardship activities. Election expenses have also not been included. The net subsidy to water supply has been covered by MPWMD’s allocation of property tax and other revenues. One can clearly see there are no reserves built up by the Water Supply Charge.

At its October 19, 2020 meeting the District Board adopted a policy that if User Fee collections in a fiscal year exceed the budget, then the excess will be applied in the following fiscal year budget in the following priority: First, to repay reserves used for water supply project costs; Second, to deposit into a sinking fund to pay off the Mechanic’s Bank loan; Third, to build a fund that can be used to offset and sunset the Water Supply Charge.

The current FY2020-21 budget does set aside \$500,000 in a sinking fund for paying off the Mechanics Bank loan, but the Water Supply Charge will primarily be used to pay ongoing capital

costs of the Aquifer Storage and Recovery project, the Pure Water Monterey operating reserve, and a fourth deep well for Pure Water Monterey. It is likely the collections will be insufficient to meet all MPWMD water supply needs next year and those activities will again be subsidized by other District revenues.

EXHIBIT

None

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ORDINANCE NO. 152 OVERSIGHT PANEL

DISCUSSION ITEM

5. REVIEW OF REVENUE AND EXPENDITURES OF WATER SUPPLY CHARGE RELATED TO WATER SUPPLY ACTIVITIES

Meeting Date: March 24, 2021

From: Suresh Prasad
Administrative Services Manager/
Chief Financial Officer

Prepared By: Sara Reyes

CEQA Compliance: This action does not constitute a project as defined by the California Environmental Quality Act Guidelines section 15378

SUMMARY: Please review **Exhibit 5-A** and **5-B** submitted for discussion at the March 24, 2021, committee meeting.

EXHIBITS

5-A Water Supply Charge Receipts

5-B Water Supply Charge Availability Analysis

EXHIBIT 5-A

Monterey Peninsula Water Management District

Water Supply Charge Receipts

	FY 2018-2019 Adopted Budget	FY 2018-2019 Audited Actuals	FY 2019-2020 Adopted Budget	FY 2019-2020 Audited Actuals	FY 2020-2021 Adopted Budget	FY 2020-2021 Thru 12/31/2021
Water Supply Charge	\$3,400,000	\$3,410,398	\$3,400,000	\$3,355,193	\$3,300,000	\$2,028,469
Percentage collected over budget		100.3%		98.4%		60.5%

EXHIBIT 5-B

Monterey Peninsula Water Management District

Water Supply Charge Availability Analysis

	FY 2018-2019 Revised Budget	FY 2018-2019 Audited Actuals	FY 2019-2020 Revised Budget	FY 2019-2020 Audited Actuals	FY 2020-2021 Adopted Budget	FY 2020-2021 Thru 12/31/2021
Beginning Fund Balance		\$7,333,575		\$8,584,956		\$7,506,595
Water Supply Charge	\$3,400,000	\$3,410,398	\$3,400,000	\$3,355,193	\$3,300,000	\$2,028,469
Capacity Fee	450,000	591,240	500,000	575,511	400,000	236,357
PWM Water Sales	-	-	-	0	0	1,515,642
Project Reimbursement	619,200	526,867	845,700	1,220,812	1,145,700	0
Property Taxes	150,000	158,396	1,800,000	1,945,614	1,325,850	799,408
User Fees	640,000	792,917	720,000	789,399	610,000	396,886
Grants	95,000	200,000	-	0	0	0
Interest	90,000	145,850	115,000	193,985	100,000	21,942
Reclamation Project	-	-	-	0	500,000	500,000
Other	5,000	545	5,000	2,192	5,000	3,190
Total Revenues	\$5,449,200	\$5,826,213	\$7,385,700	\$8,082,706	\$7,386,550	\$5,501,894
Direct Personnel	1,160,205	1,258,088	1,252,304	1,313,679	1,299,134	745,425
Direct Supplies & Services*	98,934	89,505	112,365	108,649	120,978	51,250
Legal	200,000	213,023	220,000	99,004	220,000	42,361
Project Expenditures [see below]	2,588,500	1,681,564	11,403,550	6,699,372	10,895,400	4,794,056
Project Expenditures-Reimbursements [see below]	731,600	603,211	754,700	296,513	954,700	280,081
Fixed Asset Purchases	110,100	76,477	61,600	14,927	63,000	11,008
Contingencies	24,000	-	23,100	0	23,100	0
Debt Service	230,000	219,136	230,000	219,136	230,000	62,308
Election Expense	51,200	70,721	-	0	66,000	0
Indirect Labor*	180,995	180,995	189,196	189,196	183,066	91,533
Indirect Supplies & Services*	200,866	182,112	228,135	220,591	245,622	104,052
Reserve	-	-	77,100	0	1,097,850	0
Total Expenditures	\$5,576,400	\$4,574,832	\$14,552,050	\$9,161,067	\$15,398,850	\$6,182,074
Net Revenue Over Expenses**	(\$127,200)	\$1,251,381	(\$7,166,350)	(\$1,078,361)	(\$8,012,300)	(\$680,180)
Ending Fund Balance		\$8,584,956		\$7,506,595		\$6,826,415
Project Expenditures	FY 2018-2019 Revised Budget	FY 2018-2019 Audited Actuals	FY 2019-2020 Revised Budget	FY 2019-2020 Audited Actuals	FY 2020-2021 Adopted Budget	FY 2020-2021 Thru 12/31/2021
PWM Project	\$425,000	\$350,686	\$3,110,000	\$1,687,304	\$3,955,000	\$45,075
PWM Project - Expansion	\$0	\$0	\$0	\$731,337	\$750,000	\$0
PWM Project - Operating Reserve	\$0	\$0	\$0	\$0	\$1,150,000	\$768,459
PWM Project - Water Purchase	\$0	\$0	\$0	\$0	\$0	\$1,649,054
ASR Phase I	\$1,144,000	\$984,804	\$6,108,000	\$2,831,248	\$3,922,400	\$2,184,941
Reimbursement Projects	\$731,600	\$603,211	\$754,700	\$296,513	\$954,700	\$280,081
Cal-Am Desalination Project	\$150,000	\$2,336	\$50,000	\$32,416	\$50,000	\$0
ASR Expansion	\$0	\$0	\$0	\$350	\$80,000	\$0
Other Water Supply Projects - IFIM/GSFlow	\$20,000	\$23,578	\$32,300	\$23,048	\$0	\$1,333
Local Water Projects	\$292,000	\$0	\$200,000	\$0	\$307,000	\$0
Measure J/Feasibility Study	\$144,000	\$89,297	\$384,000	\$274,507	\$192,000	\$108,120
Drought Contingency Plan	\$235,000	\$181,072	\$0	\$0	\$0	\$0
Los Padres Long Term Plan	\$0	\$0	\$328,000	\$82,720	\$295,000	\$0
PB Reclamation Project	\$0	\$0	\$1,000,000	\$1,000,000	\$0	\$0
Other Project Expenditures	\$178,500	\$49,791	\$191,250	\$36,442	\$194,000	\$37,074
Total Project Expenses	\$3,320,100	\$2,284,775	\$12,158,250	\$6,995,885	\$11,850,100	\$5,074,137

*: Indirect costs as percent of Water Supply Charge 11.2% 10.6% 12.3% 12.2% 13.0% 9.6%

Recent Activities:

- ASR Chemical Building
- Measure J/Feasibility Study
- PB Reclamation Project Financing
- PWM Reserve Water Purchase

** Deficit balances are paid from combination of loan, interfund borrowing, line of credit proceeds, or fund balance

ORDINANCE NO. 152 OVERSIGHT PANEL

DISCUSSION ITEM

6. DISCUSS PERFORMANCE OF DISTRICT USER FEE TO DATE

Meeting Date: March 24, 2021

From: Suresh Prasad
Administrative Services Manager/
Chief Financial Officer

Prepared By: Sara Reyes

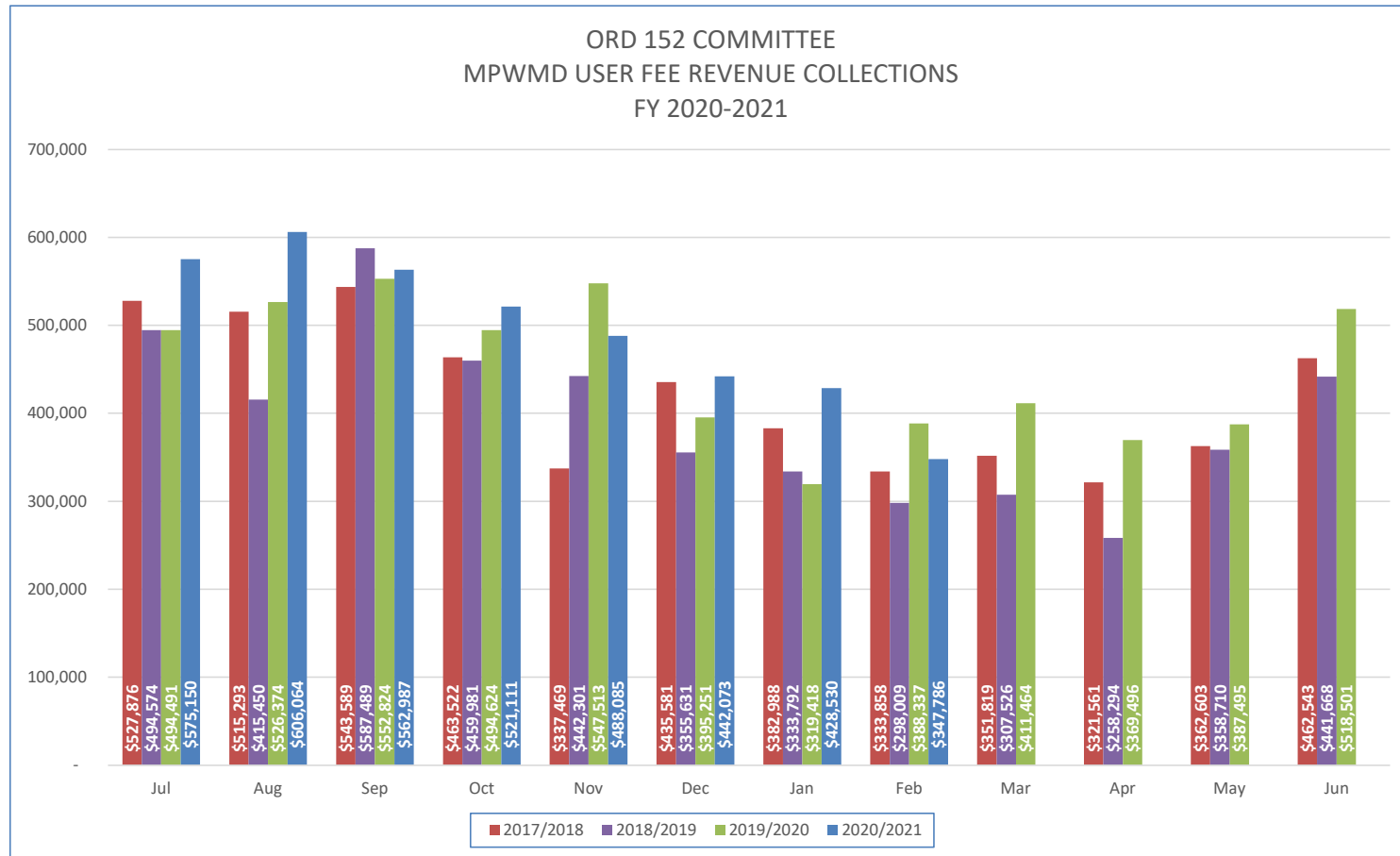
CEQA Compliance: This action does not constitute a project as defined by the California Environmental Quality Act Guidelines section 15378

SUMMARY: Attached for your review in advance of the March 24, 2021 committee meeting is Exhibit 6-A.

EXHIBIT

6-A MPWMD User Fee Revenue Collections FY 2020-2021

EXHIBIT 6-A



User Fee Collections:

	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2017/2018	527,876	515,293	543,589	463,522	337,469	435,581	382,988	333,858	351,819	321,561	362,603	462,543	\$ 5,038,701
2018/2019	494,574	415,450	587,489	459,981	442,301	355,631	333,792	298,009	307,526	258,294	358,710	441,668	\$ 4,753,426
2019/2020	494,491	526,374	552,824	494,624	547,513	395,251	319,418	388,337	411,464	369,496	387,495	518,501	\$ 5,405,787
2020/2021	575,150	606,064	562,987	521,111	488,085	442,073	428,530	347,786					\$ 3,971,784
Var (%)	16.31%	15.14%	1.84%	5.35%	-10.85%	11.85%	34.16%	-10.44%	-100.00%	-100.00%	-100.00%	-100.00%	-26.53%